



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

HERITAGE INTEGRITY INVESTMENT  
TRUST,

Plaintiff,

-against-

COMPUTERSHARE TRUST COMPANY,  
N.A. *et al.*,

Defendant.

24-CV-9309 (JPC) (BCM)

**ORDER**

**BARBARA MOSES, United States Magistrate Judge.**

Currently pending before the Court are: (i) defendant Computershare Trust Company's motion to dismiss the claims against it (Dkt. 32), filed on February 7, 2025; (ii) plaintiff's motion to dismiss pro se defendant Isaac Cain's counterclaim (Dkt. 49), filed on March 10, 2025; and (iii) plaintiff's motion for default judgment as to defendant Ruwack Irrevocable Trust (Dkt. 51), filed on March 10, 2025. Opposition papers to all pending motions are due no later than March 31, 2025. (Dkt. 53.) The deadline to file any other motion to dismiss made pursuant to Fed. R. Civ. P. 12(b)(6) or 12(c) was February 28, 2025. (*See* Dkt. 42 at 2.)

Notwithstanding this deadline, defendant Cain has filed a "Notice of Motion to Dismiss" dated March 17, 2025 (Dkt. 56), and a "Rule 56(e) Summary Judgment" declaration dated March 18, 2025 (Dkt. 57), both of which were docketed yesterday. It is not clear from defendant Cain's submissions whether he intended to file a motion to dismiss pursuant to Fed. R. Civ. P. 12(c) (which goes to the sufficiency of the pleadings, but was due no later than February 28, 2025), or a motion for summary judgment pursuant to Fed. R. Civ. P. 56 (which goes to the sufficiency of the evidence, and would be premature at this stage of the case, no discovery having taken place). The Court also reminds defendant Cain that on February 13, 2025, plaintiff announced its intention to *voluntarily discontinue its action as against Cain* if and when defendant Cain's counterclaim is

dismissed. (*See* Dkt. 40 at 2.) Should plaintiff voluntarily discontinue its action against Cain, it would not be necessary for Cain to file any dispositive motion.

In order to guide the Court's decision-making, defendant Cain is hereby ORDERED to file a letter no later than **April 4, 2025**, on the docket,<sup>1</sup> clarifying which (if any) motion he intends to make at this time. If he wishes to make a Rule 12(c) motion, he must explain why he did not file it by February 28, as required. If he wishes to make a Rule 56 motion, he must explain why he should be permitted to do so before any discovery has taken place.

Dated: New York, New York  
March 27, 2025

**SO ORDERED.**



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**BARBARA MOSES**  
**United States Magistrate Judge**

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<sup>1</sup> Defendant Cain is reminded that except as otherwise provided by Judge Moses's Individual Practices, "communications with the Court (other than during conferences, hearings, or trials) should be by motion or letter, filed on ECF." Moses Ind. Prac. § 1(a). There is no need to email the Court's staff to advise that a letter or motion has been filed.